

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 132

June 23, 1958

RECORDING ARTISTS: TAXABILITY OF INCOME: CHANGE OF RESIDENCE STATUS

Syllabus:

Royalty income of a recording artist does not accrue until the records upon which the royalty is based are sold. Consequently, a recording artist is taxable only upon those royalties which accrue while he is a resident of this State or result from such personal services performed within this State.

Taxpayer is a recording artist who receives as consideration for such services a royalty based upon the number of records sold. Taxpayer was a resident of this State during the year 1948, a resident of New York from January 1, 1949 until May, 1950, and of California after that date. During this period taxpayer made recordings in California and New York. Advice is requested as to the portion of taxpayer's entire royalty income that is taxable in California for each year.

The entire royalty income received by taxpayer during the period he was a resident of this State would be taxable, regardless of when or where the recording was made. A resident is taxable upon his entire income irrespective of its source. However, when a person changes his resident status during a given period, section 17596 of the Personal Income Tax Law provides for an accrual of income up to the date of change regardless of the method of accounting used. The portion of taxpayer's total income resulting from recordings made while he was a New York resident, is not exempt from tax since the amounts did not accrue until the records were sold. Until that time the recording company had no obligation to pay taxpayer anything for his services. Such amounts being a percentage of future profits were contingent and uncertain and were not determinable.

For the period in which taxpayer was a nonresident of California, only income from recordings made in California during that period is taxable. Such income, under section 17951, resulted from performance of personal services in California and accordingly had its source in this State without regard to its accrual.

Since such royalty income does not accrue within the meaning of section 17596, and the section does not apply to income which does not "accrue" prior to the change in residency, royalty income from services performed outside of California during a period of residency, will not be taxed after the individual becomes a nonresident.